

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

SCOTT PANETTI,
Petitioner

V.

BOBBY LUMPKIN,
Director, Texas Department of
Criminal Justice, Correctional
Institutions Division
Respondent.

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Case No. 1-04-CV-042-RP

PROPOSED SCHEDULING ORDER

It is ORDERED that the following schedule is adopted for the determination of
Petitioner Scott Panetti's current competency for execution under *Ford v.*

Wainwright, 477 U.S. 399 (1986), and *Panetti v. Quarterman*, 551 U.S. 930 (2007):

1. On or before November 19, 2021, the State shall provide Scott Panetti's counsel with Scott Panetti's Texas Department of Criminal Justice records—including any audio recordings of his non-legal visits—from the date of his TDCJ admission on September 25, 1995, to the present. The State shall provide Scott Panetti's counsel with updates to the TDCJ records every 30 days.
2. Counsel for Scott Panetti shall file a petition for writ of habeas corpus raising a *Ford* claim on or before November 21, 2022.
3. The State shall file its answer to the habeas petition on or before January 20, 2023.
4. Counsel for Scott Panetti shall file their reply to the State's answer on or before March 6, 2023.

5. On or before April 5, 2023, counsel for each party shall disclose the information described in Federal Rule of Civil Procedure 26(a)(1)(A)(i) and (ii).
6. On or before April 20, 2023, counsel for each party shall serve requests for production under Federal Rule of Civil Procedure 34(a) and (b).
7. On or before May 4, 2023, counsel for Scott Panetti shall file their designation of testifying experts and serve on the State, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B).
8. On or before June 5, 2023, the State shall file its designation of testifying experts and serve on counsel for Scott Panetti, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B).
9. On or before July 20, 2023, the parties may conduct depositions of the testifying experts. If a party seeks to depose more than ten witnesses or a witness who is incarcerated, counsel shall file a motion for leave to take those depositions no later than June 19, 2023.
10. An objection to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702 shall be made by motion, specifically stating the basis for the objection and identifying the objectionable testimony, within 11 days from the receipt of the written report of the expert's proposed testimony, or within 11 days from the completion of the expert's deposition, if a deposition is taken, whichever is later.
11. The parties shall exchange witness lists and exhibit binders on or before July 27, 2023.
12. On or before August 28, 2023, the parties shall file any pre-trial motions, including motions *in limine* and motions to broaden or streamline the issues. The parties shall also file, on or before this same date, any dispositive motions. Responses shall be filed within 14 days after service of the motion. Replies shall be filed within 7 days after service of the response.
13. The Court shall set this case for a status conference the week of September 27, 2023. The evidentiary hearing shall take place the week of October 9, 2023.
14. The parties shall file simultaneously their post-hearing briefs within 60 days after the court reporter prepares the transcript of the evidentiary hearing.

15. The parties shall file simultaneously any responsive briefs not later than 45 days after service of the opposing party's opening brief.

By filing an agreed motion, the parties may ask this Court to extend any deadline set in this Order, with the exception of the dispositive motions deadline and the hearing date.

Entered this ____ day of _____, 2021.

HON. ROBERT PITMAN
U.S. DISTRICT COURT JUDGE

CERTIFICATE OF CONFERENCE

I certify that on this 20th day of September 2021, I conferred with Counsel for Respondent, Rachel L. Patton, about the foregoing Proposed Scheduling Order. Despite our good faith efforts, we were unable to agree on the dates listed in this Proposed Scheduling Order.

/s/ Gregory W. Wiercioch

CERTIFICATE OF SERVICE

I certify that on this 20th day of September 2021, I electronically filed the foregoing Proposed Scheduling Order with the clerk of the court for the U.S. District Court, Western District of Texas, using the electronic case filing system. A “Notice of Electronic Filing” was sent to Counsel for Respondent at the following e-mail address:

Rachel L. Patton
Assistant Attorney General
Rachel.Patton@oag.texas.gov

/s/ Gregory W. Wiercioch